REMARKS

This application has been carefully reviewed in light of the Office Action mailed August 13, 2003. Claims 1-17 are pending and stand rejected. Applicants have amended Claims 1, 3, 4, 7, 9, 11-15, and 17. Reconsideration and allowance of Claims 1-17 is respectfully requested in view of the foregoing amendments and the following

Section 102 Rejections

The Examiner rejects Claims 1-17 are rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent 5,726,914 to Janovski et al ("*Janovski*"). With respect to anticipation under §102, the Court of Appeals for the Federal Circuit has consistently adhered to the basic principle that: "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 U.S.P.Q.2d 1051, 1053 (Fed. Cir. 1987).

Claim 1 recites, in part, "A computer-implementable method for importing external productivity data into a performance evaluation system, comprising ... storing a plurality of user-defined data elements for an evaluation process ... storing a user-defined configuration table for a third-party data file comprising external productivity data, the configuration table associating external productivity data items in the third-party data file with the user-defined data elements ... mapping external productivity data items from the third-party data file to the data elements based on the configuration table ... and inserting the external productivity data items into a plurality of productivity tables based on the mapping of the external productivity data items to the data elements, the external productivity data items inserted into the productivity tables capable of being used to calculate productivity scores for the evaluation process." Applicants respectfully submit that *Janovski* fails to teach, suggest, or disclose various aspects of Claim 1. For example, *Janovski* fails to teach "storing a user-defined configuration table for a third-party data file comprising external productivity data" and "mapping external productivity data items from the third-party data file to the data elements based on the configuration table" as recited, in part by claim 1.

The Office Action appears to assert that the configuration Table 1 of *Janovski* is similar to "a user-defined configuration table for a third-party data file comprising external productivity data" as recited by Claim 1. Instead, *Janovski* teaches collecting customer data and converting the customer data <u>into</u> productivity data <u>using the configuration table</u> – not a method for importing "a third party data file comprising external productivity data". *See, e.g., Janovski*, 1:27-32. In short, *Janovski* merely discloses the use of configuration Table 1 to <u>generate</u> performance data from received customer or goal data – not "mapping external productivity data items from the third-party data file to the data elements based on the configuration table" as recited by Claim 1. For example, the data collection circuit 120 in *Janovski* "collects the customer data in accordance with the algorithm and the configuration data *to generate the performance data.*" *Id.* at 11:50-53 (emphasis added); *id.* at FIGURE 5. In another example, *Janovski* discloses the "configuration table data includes an algorithm identification [which] identifies a list of instructions, procedures, or the algorithm to gather data and *to transfer the customer data into performance data.*" *Id.* at 4:26-32. In yet another example, *Janovski* describes that "[o]ne advantage of the present invention is in producing real time performance data." *Id.* at 1:38-39. Accordingly, *Janovski* does not teach, suggest, or disclose "storing a user-defined configuration table for a third-party data file comprising external productivity data" or "mapping external productivity data items from the third-party data file to the data elements based on the configuration table" as recited, in part, by Claim 1.

For at least these reasons, Applicants respectfully request reconsideration and allowance of Claim 1. Claims 2-6 and 9-10 depend from Claim 1 shown above to be allowable. For at least these reasons, Applicants respectfully request reconsideration and allowance of Claims 2-6 and 9-10.

For at least the reasons stated above with regard to Claim 1, Applicants respectfully request reconsideration and allowance of independent Claims 7 and 17. For at least the reasons stated above with regard to Claim 2-6 and 9-10, and because Claims 8 and 11-16 depend from an independent Claim shown above to be allowable, Applicants respectfully request reconsideration and allowance of Claims 8 and 11-16.
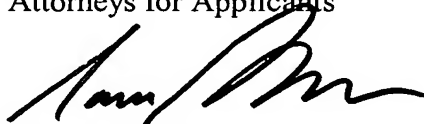
CONCLUSION

Applicants have now made an earnest attempt to place this case in condition for immediate allowance. For the foregoing reasons and for other apparent reasons, Applicants respectfully request allowance of all pending claims.

If the Examiner feels that prosecution of the present Application may be advanced in any way by a telephone conference, the Examiner is invited to contact the undersigned attorney at 214-953-6581.

Although no fees are believed due, the Commissioner is hereby authorized to charge any fees necessary for advancement of the prosecution of this case or credit any overpayment to Deposit Account No. 02-0384 of Baker Botts, L.L.P.

Respectfully submitted,

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